

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
City of Cleveland)
) File No.: EB-FIELDNER-18-00027583
Licensee of Station KJA414)
)
Cleveland, Ohio)
)

NOTICE OF VIOLATION

Released: October 19, 2018

By the Regional Director, Region One, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules¹ to the City of Cleveland, licensee of Marine Coast Station License KJA414 in Cleveland, Ohio. Pursuant to Section 1.89(a) of the Commission’s rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On September 19, 2018, in response to an interference complaint, agents of the Enforcement Bureau’s Columbia Office monitored radio station KJA414 located at River Road Lift Bridge office and observed the following violations:

- a. 47 C.F.R. § 80.89(a): “Stations must not engage in superfluous radio communications.” At the time of the investigation, agents observed the intentional transmission of multiple unmodulated carriers (dead air) that interrupted safety radio communications on Marine Channel 16 (156.8 MHz) from crew teams on the local waterways.
- b. 47 C.F.R. § 1.903(a): “General rule. Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section.” The license for Station KJA414 authorizes the City of Cleveland to operate a Marine Coast Station at 310 Carnegie Avenue, Cleveland, Ohio at the coordinates 41° 29’ 33.2” North Latitude and 081° 41’ 16.5” West Longitude. During the inspection on September 19, 2018, Agents found that the City of Cleveland was operating the Marine Coast Station from an unauthorized location. The City of Cleveland was operating the Marine Coast Station at the River Road Life Bridge in Cleveland, Ohio at the coordinates 41°

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

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29° 54.1” North Latitude and 081° 42’ 38.1” West Longitude. This location is 1.2 miles from the authorized location.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended (Act), and Section 1.89 of the Commission’s rules, we seek additional information concerning the violations and any remedial actions taken.³ Therefore, the City of Cleveland must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s rules, we direct City of Cleveland to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of City of Cleveland with personal knowledge of the representations provided in City of Cleveland’s response, verifying the truth and accuracy of the information therein, and confirming that all of the information requested by this Notice which is in the City of Cleveland’s possession, custody, control, or knowledge has been produced.⁵ To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Enforcement Bureau Columbia Regional Office
9050 Junction Drive
Annapolis Junction, Maryland 20701
FIELD@FCC.GOV

6. This Notice shall be sent to the City of Cleveland at its address of record, 1300 Lakeside Avenue, Attn: Brad A. Handke, Cleveland, Ohio 44114.

³ 47 U.S.C. 308(b); 47 CFR § 1.89.

⁴ 47 CFR § 1.89(c).

⁵ Section 1.16 of the Commission’s rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 CFR § 1.16.

⁶ 18 U.S.C. §§ 1001, *et seq.*; *see also* 47 CFR § 1.17.

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7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

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David Dombrowski
Regional Director
Region One
Enforcement Bureau

⁷ 5 U.S.C. § 552a(e)(3).